

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-0225-C - ORDER NO. 2000-731
SEPTEMBER 1, 2000

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| IN RE: Application of NOS Communications, Inc. |) | ORDER |
| dba The Internet Business Association |) | GRANTING |
| (INETBA) for a Certificate of Public |) | CERTIFICATE |
| Convenience and Necessity to Provide Resold |) | |
| and Facilities-Based Local Exchange |) | |
| Telecommunications Services within the State |) | |
| of South Carolina and for Flexible |) | |
| Regulation. |) | |

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of NOS Communications, Inc. dba The Internet Business Association (INETBA) ("NOS" or the "Company") requesting a Certificate of Public Convenience and Necessity to authorize NOS Communications, Inc. dba The Internet Business Association (INETBA) to provide resold and facilities-based local exchange telecommunications services throughout the State of South Carolina. Further, NOS requested the Commission to allow flexible regulation of its local services consistent with the principles and procedures established by Order 98-165 in Docket No. 97-467-C. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1999) and Section 253 of the Telecommunications Act of 1996.

By letter, the Commission's Executive Director instructed NOS to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested

parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. NOS complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on July 13, 2000.

On August 1, 2000, counsel for SCTC filed with the Commission a Stipulation in which NOS stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until NOS provided written notice of its intent prior to the date of the intended service. NOS also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. NOS agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to NOS to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on August 23, 2000, at 11:00 a.m., in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided. NOS was represented by Weston Adams, III, Esquire, and Craig Riegler, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff.

Cardinal Southwell, Vice-President-Local Service Development of NOS Communications, Inc. dba The Internet Business Association (INETBA), appeared and testified in support of the Application. According to the record, Mr. Southwell has approximately twenty-six years experience in the telecommunications industry. He was employed for twenty-five years by NY Telephone/NYNEX/Bell Atlantic. During these years, his positions included Staff Director, Wholesale Markets-Customer Documentation and Markets Training, Business Office Supervisor, and Business Office Representative. At NOS, Mr. Southwell is in charge of developing the entire local service business line for the Company on a state by state basis. He outlines the products, services and systems that NOS will sell and manages how those services will be sold. He is also in charge of customer care and is the contact person at NOS for regulatory and customer care matters.

NOS is a Maryland corporation and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State. NOS is currently offering long distance services in South Carolina. That authority was granted by this Commission in Docket Number 1991-617-C, Order Number 92-213 on March 24, 1992. Mr. Southwell testified that NOS is certified in fourteen states and is currently offering local dial tone services in New York, California, Texas and Massachusetts. He stated the Company has a small number of customers in New Jersey and Pennsylvania. He further stated that NOS is currently negotiating an interconnection agreement with BellSouth.

NOS intends to offer resold local exchange and Digital Subscriber Line (DSL) service to business and residential customers throughout the state. The Company's application reveals the Company initially proposes to offer only resold local exchange

services but seeks authority to provide both resold and facilities-based local exchange services throughout the state so that it can expand its operations as market conditions warrant and as such areas become open to competition. Mr. Southwell testified that NOS will use direct marketing by sales analysts and will initially target the small business customer. The record reveals NOS intends to provide essentially the same local exchange telecommunications services to the public in the State of South Carolina that are now furnished by incumbent local exchange companies (ILECs). These services will include voice lines such as business lines, residential lines, trunk lines, and the associated features that supplement these lines. The Company's services, including DSL services, will be provided on a twenty-four hour per day, seven day per week basis.

Mr. Southwell explained the Company's technical, managerial, and financial ability to offer telecommunications services in South Carolina. The testimony reveals NOS will do its own billing in-house. The Company's name, address and toll free telephone number will be printed on the bill. The toll free number for customer service is 1-888-569-4667. Mr. Southwell stated that customer care service will be available twenty-four hours a day, seven days a week and that NOS reports repair complaints electronically to the local exchange service for resolution.

Mr. Southwell also provided information regarding the Company's financial ability to offer telecommunications services in South Carolina. The record indicates the Company possesses the financial resources to offer the proposed services. Mr. Southwell offered that the Company generates approximately \$400 million dollars a year in gross revenues.

Mr. Southwell testified that NOS has sufficient managerial resources available with which to provide telecommunications services in South Carolina. As Vice President-Local Service Development of NOS, Mr. Southwell stated that he has the most telecommunications experience of any of the management team at NOS. He testified he brought twenty-five years of telecommunications experience with him from NY Telephone/NYNEX/Bell Atlantic when he went to NOS March 1, 1999. He testified that Michael W. Arnau, Chief Executive Officer of NOS, has approximately fifteen years of telecommunications experience and that Joe Koppy, President of NOS, has about ten years of telecommunications experience. The record reveals that Mr. Arnau received a B.S. degree in Finance from the University of Florida. He worked for Southern Bell in the late 1970's and early 1980's and spent six years as a national account manager with AT&T from 1983-1989. Mr. Koppy received a B.A. degree from Washington State University in accounting and has been President of NOS Communications, Inc. since November of 1995. Other key members of the NOS management team include Mr. Greg Rosebeck, Executive Vice President-Sales and Marketing, Mr. Randy Lemmo, Vice President of Operations, and Mr. Nate Brown, Vice-President of Information Systems.

NOS requests that it be exempt from any record-keeping rules or regulations that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. According to the record, NOS currently maintains its books of accounts in accordance with Generally Accepted Accounting Principles. In addition, NOS requests a waiver of 26 S.C. Code Ann. Regs. 103-631 and 103-610 (1976 and Supp. 1999). The Company requests that it be allowed to keep in records at its

headquarters and principal business office in Las Vegas, Nevada and that it not be required to publish local exchange directories. NOS will make arrangements with the incumbent local exchange carrier whereby the names of NOS's customers will be included in the directories published by the incumbent local exchange carrier. Mr. Southwell testified that NOS will make its books and records available to the Commission for inspection at any time.

Mr. Southwell testified that NOS's services will meet the Commission's service standard. Further, the Company intends to abide by all universal service requirements. In addition, the testimony states certification of NOS as a competitive local exchange carrier (CLEC) should increase the availability of affordable local exchange service. Finally, Mr. Southwell's testimony provides that approval of NOS's application will be in the public interest by providing increased consumer choice, increased availability, and diversity in the provision of communications services.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. NOS Communications, Inc. is a Maryland corporation that was incorporated on November 15, 1989, and was authorized to do business in South Carolina by the Secretary of State of the State of South Carolina on December 2, 1991.
2. NOS wishes to provide local exchange services within the State of South Carolina.

3. The Commission finds that NOS possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1999).

4. The Commission finds that NOS's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1999).

5. The Commission finds that NOS will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1999).

6. The Commission finds that NOS will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1999).

7. The Commission finds that the provision of local exchange service by NOS "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1999).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to NOS to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation between NOS and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, NOS may not provide any local service to a customer located in a rural incumbent LEC's service area, unless or until NOS provides such rural incumbent LEC

and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from NOS that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by NOS in a rural incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. NOS shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. NOS's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for NOS's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with

the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, NOS's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. NOS shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. NOS shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. NOS shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, NOS shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at www.psc.state.sc.us/forms. This form is entitled "Annual Report for Competitive Local Exchange Carriers" and consists of four pages.

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs NOS to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, NOS shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the

names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

NOS shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to file this authorized utility representative information can be found at the Commission's web site at www.psc.state.sc.us/forms. This form is entitled "Authorized Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

8. NOS shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

9. NOS requested waivers from certain Commission regulations and requirements. Specifically, NOS requested waivers from (1) the requirement found in Rule 26 S.C. Code Ann. Regs. 103-631 (1976 and Supp. 1999) to publish and distribute local exchange directories; (2) the requirement found in Rule 26 S.C. Code Ann. Regs. 103-610 (1976 and Supp. 1999) to keep its books and records within the State of South Carolina; (3) any requirement to maintain books and records in compliance with the USOA; and (4) any requirement found in Rule 26. S.C. Code Ann. Regs. 103-612.2.3 to file a map showing NOS's certificated service area. The Commission grants the request for waiver from the requirement to publish directories as NOS has indicated that it will contract with the local incumbent local exchange company to include the customers of NOS in the directory listing of the ILEC directory. Further, the Commission grants

NOS's request that it be allowed to keep its books and records at its headquarters in Las Vegas, Nevada. The Commission also grants NOS the opportunity to keep its books and records in accordance with GAAP rather than the USOA. Further, the Commission waives the requirement that NOS file a map showing its certificated area. NOS is seeking authority to provide local exchange services throughout the State of South Carolina. Therefore, the Commission waives any requirement to file a map of the certificated area. NOS is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



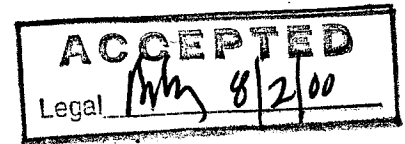
Chairman

ATTEST:

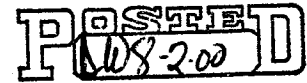


Executive Director

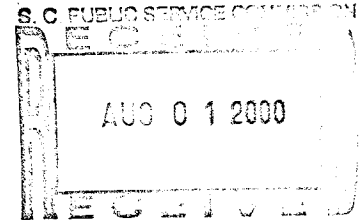
(SEAL)



BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA



Docket No. 2000-0225-C



Re: Application of NOS Communications d/b/a The)
Internet Business Association for a Certificate)
of Public Convenience and Necessity to Provide)
Local Exchange Telecommunications Services)
in the State of South Carolina)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and NOS Communications, Inc. d/b/a The Internet Business Association ("NOS Communications") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose NOS Communications' Application. SCTC and NOS Communications stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to NOS Communications, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. NOS Communications stipulates and agrees that any Certificate which may be granted will authorize NOS Communications to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. NOS Communications stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.
4. NOS Communications stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area,

RETURN DATE: OK DBL
SERVICE: OK DBL

unless and until NOS Communications provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, NOS Communications acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. NOS Communications stipulates and agrees that, if NOS Communications gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then NOS Communications will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. NOS Communications acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and NOS Communications, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. NOS Communications agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. NOS Communications hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 27th day of July, 2000.

NOS Communications, Inc. d/b/a
The Internet Business Association:

South Carolina Telephone Coalition:

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ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company